

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

**PAMBELA CARTER, individually**

**Plaintiff,**

**v.**

**Case No: 5:21-cv-152-JSM-PRL**

**LARRY CLARK,**

**Defendant.**

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**ORDER**


Previously, the Court entered an Order to show cause directing Plaintiff to respond regarding whether his motion for Clerk's default should be granted. Plaintiff has responded and asserts that, despite his diligent attempts to obtain service, Defendant Larry Clark is concealing his whereabouts and that Plaintiff was required to obtain service through the Secretary of State pursuant to Florida Statute § 48.161. (Doc. 31).

In certain circumstances, substitute service of process may be effected under Florida law upon either a nonresident or a party who conceals his or her whereabouts. The method relied upon by Plaintiff here for effecting substitute process is outlined in Florida Statute § 48.161. Section 48.161 requires substituted service be evidenced by: (1) registered or certified mailing to the nonresident of (a) a notice of such substituted service and (b) a copy of the process, which must be evidenced by (c) the filing of the nonresident's return receipt and (d) an affidavit of compliance by plaintiff or his or her attorney; or (2) an appropriate officer's return showing service on the nonresident within or without the state of Florida. § 48.161, Fla. Stat. (2013); *Conde v. Profl Mediquip of Fla., Inc.*, 436 So.2d 322, 323 (Fla. 4th DCA 1983).

Through representations of counsel Jason Tenenbaum, Plaintiff attests that he sent notice to the Defendant, via certified or registered mail, that substitute service has been effected through the Secretary of State, that he filed the return receipt from the defendant, and that he filed an affidavit of compliance. (Doc. 31).

Accordingly, Plaintiff's motion for Clerk's Default (Doc. 27) is due to be granted.

**DONE** and **ORDERED** in Ocala, Florida on November 23, 2021.



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PHILIP R. LAMMENS  
United States Magistrate Judge

Copies furnished to:

Counsel of Record  
Unrepresented Parties